

BEFORE THE
BOARD OF ACCOUNTANCY
STATE OF CALIFORNIA

In the Matter of the Petition to)	
Revoke Probation Against:)	Case No. D1-2001-17
)	
BARRY A. SNELL)	OAH No. L2004040559
1425 Princeton Street, number 1)	
Santa Monica, CA 90404)	
)	
Certified Public Accountant)	
Certificate No. CPA 43463)	
)	
Respondent.)	
_____)	

PROPOSED DECISION

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on October 1, 2004.

Gus Gomez, Deputy Attorney General, represented Carol Sigmann (complainant).

Respondent appeared *in propria persona*.

Complainant seeks to discipline respondent's certificate on the grounds of respondent's non-compliance with an existing disciplinary order. Respondent does not dispute the facts, but presents evidence in mitigation and rehabilitation.

Oral and documentary evidence was received at the hearing and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant filed the Petition to Revoke Probation in her official capacity of Executive Officer, California Board of Accountancy (Board), Department of Consumer Affairs.
2. On August 12, 1985, the Board issued Certified Public Accountant Certificate number 43463 to respondent.

3. The certificate has lapsed on six separate occasions (May 1 to September 26, 1989; May 1, 1991 to May 28, 1993; May 1, 1995 to March 19, 1996; July 6 to October 29, 2002; June 25 to July 30, 2003; and February 7, 2004 to July 11, 2004) because of respondent's failure to pay renewal fees or his failure to submit proof of completion of continuing education requirements.

4. On several instances over the past 11 years, the certificate has been replaced by a temporary license (April 30 to September 27, 1993; March 30 to August 17, 1996; July 30 to November 6, 2003; and February 7 to July 11, 2004) or rendered invalid (September 27, 1993 to February 16, 1994; June 11, 1997 to March 28, 2002; and July 11, 2004 to the present) pursuant to the provisions of Family Code section 17520 (sanctions for failure to make court-ordered child support payments).

5. On October 1, 2001, respondent entered into a Stipulated Settlement and Disciplinary Order (Disciplinary Order), admitting he had engaged in unprofessional conduct as charged in a pending accusation.¹ The Board approved the Disciplinary Order on November 16, 2001, which order became effective December 26, 2001. Pursuant to the Disciplinary Order, respondent's certificate was revoked, which revocation was stayed, and was placed on probation for three years on specific terms and conditions, which included the following:

"1. **Actual Suspension.** Certified Public Accountant Certificate No. 43463, issued to Barry A. Snell, is suspended until it is renewed active, and then for an additional sixty (60) days thereafter. During the period of suspension the Respondent shall engage in no activities for which certification as a Certified Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of accountancy in California. [¶] ... [¶].

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions. [¶] ... [¶].

¹ It is unclear whether the unprofessional conduct related to the failure to make child support payments or to some other conduct, as the accusation was not submitted into evidence.

9. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. [¶] ... [¶].

13. **Active License Status.** Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

14. **Cost Reimbursement.** Respondent shall reimburse the Board \$3500.00 for a portion of the cost of the Board's investigation and prosecution of this case. The payment shall be made within 33 months maximum of the date the Board's decision is final, as follows: thirty-two (32) payments of \$106.06 per month, due on the first of each month, and a final payment of \$106.08."

6. a. Respondent failed to timely reimburse the Board's costs of investigation and prosecution in the prior disciplinary action. Prior to the hearing, respondent had paid approximately \$1,500 of his total obligation, which payments were usually made after the due date. The last payment had been made in November 2003.

b. At the hearing, respondent handed Deputy Attorney General Gus Gomez 5 cashier's checks, four for \$500 and one for \$100, in payment of the remainder of his cost reimbursement obligation.

7. Respondent has suffered financial difficulties as a result of the child support obligation and the related license suspensions. He initially fell behind on the child support payments because of personal and financial problems, but the financial problems have grown over time because he has been unable to procure steady employment as an accountant. The initial obligation of approximately \$6,000 has ballooned to about \$18,000 with the addition of interest and penalties. He is negotiating with his ex-wife to reduce the amount owed in order to break the cycle in which he finds himself.

8. With the consent of his ex-wife, respondent has had actual custody of the couple's three children for approximately eighteen months. Thus, no additional child support obligation is accruing and his failure to make the payments over this period has not deprived his children of actual support.

9. Respondent is also hoping to change his employment situation. He has been engaged in consulting work for a local governmental agency and has been acting as a paid advocate for an educational group. At the time of the hearing, he had serious prospects with an accounting firm and with a temporary accounting agency.

10. Respondent acknowledged his responsibility to the Board and expressed remorse about his violation of probation. He served the actual suspension required by condition number 1 of the Disciplinary Order.

11. During the period of probation, respondent has completed approximately 120 hour of continuing education.

12. Except for those previously addressed in this Decision, all other allegations in the petition to revoke probation are found to be unproved or surplusage.

LEGAL CONCLUSIONS

1. Grounds exist to revoke probation and to impose the stayed revocation in that respondent failed to maintain an active license during part of the probationary period in violation of condition number 13, by reason of factual finding numbers 3, 4, and 5.

2. Grounds exist to revoke probation and to impose the stayed revocation in that respondent failed to make scheduled cost reimbursement payments in violation of condition number 14, by reason of factual finding numbers 5 and 6.

3. Grounds exist to revoke probation and to impose the stayed revocation in that respondent failed to comply with the terms and conditions of probation in violation of condition numbers 2 and 5, by reason of factual finding numbers 3, 4, 5, and 6 and legal conclusion numbers 1 and 2.

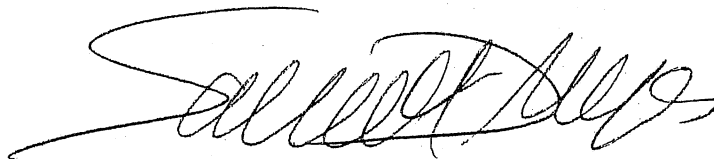
4. All evidence presented in mitigation and rehabilitation has been considered. Respondent has suffered financial difficulties, which have resulted in his noncompliance. He is remorseful about his probation violations and is taking steps to improve his financial situation. He has been providing actual support for his children, despite the arrearage. Despite the significant evidence of mitigation and rehabilitation presented by respondent, the period of probation must be extended because of the noncompliance. The order that follows is therefore necessary and adequate for the protection of the public.

ORDER

1. The Petition to Revoke Probation is sustained in accordance with legal conclusion numbers 1 through 3.

2. The Disciplinary Order is modified as follows. Certified Public Accountant Certificate number 43463 issued to Barry A. Snell is revoked. However, revocation is stayed and respondent is placed on probation for three (3) years from the effective date of this Decision on the terms and conditions of the Disciplinary Order, except for condition numbers 1 and 14.

DATED: 11/1/04

A handwritten signature in black ink, appearing to read "Samuel D. Reyes", written in a cursive style.

SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF ACCOUNTANCY
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

BARRY A. SNELL
1425 Princeton Street, Number 1
Santa Monica, CA 90404

Certified Public Accountant
Certificate No. CPA 43463,

Respondent.

Case No. D1-2001-17

OAH No. L2004040559

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the BOARD OF ACCOUNTANCY of California as its Decision in the above-entitled matter.

This Decision shall become effective December 22, 2004.

IT IS SO ORDERED November 22, 2004.

BOARD OF ACCOUNTANCY
STATE OF CALIFORNIA

By:


President

rfm

1 BILL LOCKYER, Attorney General
of the State of California
2 GUS GOMEZ, State Bar No. 146845
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2563
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**
9

10 In the Matter of the Petition to Revoke Probation
Against:

11 BARRY A. SNELL
12 1425 Princeton Street #1
Santa Monica, CA 90404

13 Certified Public Accountant Certificate No. CPA
14 43463

15 Respondent.

Case No. D1-2001-17

**PETITION TO REVOKE
PROBATION**

16
17 Complainant alleges:

18 **PARTIES**

19 1. Carol Sigmann (Complainant) brings this Petition to Revoke Probation
20 solely in her official capacity as the Executive Officer of the California Board of Accountancy,
21 Department of Consumer Affairs (Board).

22 2. On or about August 12, 1985, the California Board of Accountancy issued
23 Certified Public Accountant Certificate No. CPA 43463 to Barry A. Snell (Respondent).

24 3. In a disciplinary action entitled "In the Matter of Accusation Against Barry
25 A. Snell," Case No. AC-2001-17, the California Board of Accountancy issued a decision,
26 effective December 26, 2001, in which Respondent's Certified Public Accountant Certificate was
27 revoked. However, the revocation was stayed and Respondent's certificate was placed on
28 probation for a period of three (3) years with certain terms and conditions. A copy of that

1 decision is attached as Exhibit A and is incorporated by reference.

2 4. On or about March 29, 2002, Respondent's certificate was suspended for
3 60 days pursuant to Board Decision No. AC-2001-17.

4 5. On or about May 28, 2002, Respondent completed the 60 days suspension
5 and his certificate was reinstated to an "active" status.

6 6. On or about July 6, 2002, Respondent's certificate was placed on "hold"
7 and issued a temporary license pursuant to Family Code section 17520 (noncompliance with
8 child support order).

9 7. On or about October 30, 2002, Respondent's certificate was "released
10 from hold" and became "active" pursuant to Family Code section 17520.

11 8. On or about May 1, 2003, Respondent's certificate was "renewed" in an
12 "active" status.

13 9. On or about June 25, 2003, Respondent's certificate was placed on "hold"
14 and issued a temporary license pursuant to Family Code section 17520.

15 10. On or about July 31, 2003, the temporary license expired and his license
16 was placed in an "expired" status.

17 11. On or about November 7, 2003, Respondent's certificate was "released
18 from hold" and became "active" pursuant to Family Code section 17520.

19 12. On or about February 7, 2003, Respondent's certificate was placed on
20 "hold" and issued a temporary license, which will expire on July 11, 2004, pursuant to Family
21 Code section 17520.

22 JURISDICTION

23 13. This Petition to Revoke Probation is brought before the Board under the
24 authority of the following laws. All section references are to the Business and Professions Code
25 unless otherwise indicated.

26 14. Section 5109 states:

27 "The expiration, cancellation, forfeiture, or suspension of a license by
28 operation of law or by order or decision of the board or a court of law, or the voluntary surrender

1 of a license by a licensee shall not deprive the board of jurisdiction to proceed with any
2 investigation of or action or disciplinary proceeding against the licensee, or to render a decision
3 suspending or revoking the license."

4
5 PROBATION TERMS AND CONDITIONS

6 15. Board Decision No. AC-2001-17 provides for certain probation terms and
7 conditions, including:

8 Condition 2:

9 "Obey All Laws. Respondent shall obey all federal, California, other states' and
10 local laws, including those rules relating to the practice of public accountancy in California."

11 Condition 5:

12 "Comply With Probation. Respondent shall fully comply with the terms and
13 conditions of the probation imposed by the Board and shall cooperate fully with representatives
14 of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance
15 with probation terms and conditions."

16 Condition 9:

17 "Violation of Probation. If Respondent violates probation in any respect, the
18 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
19 carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation
20 is filed against Respondent during probation, the Board shall have continuing jurisdiction until
21 the matter is final, and the period of probation shall be extended until the matter is final."

22 Condition 13:

23 "Active License Status. Respondent shall at all times maintain an active license
24 status with the Board, including during any period of suspension. If the license is expired at the
25 time the Board's decision becomes effective, the license must be renewed within 30 days of the
26 effective date of the decision."

27 Condition 14:

28 "Cost Reimbursement. Respondent shall reimburse the Board \$3500.00 for a

1 portion of the cost of the Board's investigation and prosecution of this case. The payment shall
2 be made within 33 months maximum of the date the Board's decision is final, as follows: thirty-
3 two (32) payments of \$106.06 per month, due on the first of each month, and a final payment of
4 \$106.08."

5 VIOLATIONS OF PROBATION

6 16. Respondent is in violation of the following terms of probation:

7 A. Condition 2. Obey All Laws: Respondent failed to obey rules and
8 regulations of the Board by failing to comply with Board Decision No. AC-2001-17.

9 B. Condition 5. Comply With Probation: Respondent failed to comply with
10 the terms and conditions of the probation imposed by the Board.

11 C. Condition 13. Active License Status: Respondent failed to maintain an
12 active license status.

13 D. Condition 14. Cost Reimbursement: Respondent failed to make
14 scheduled payments to the Board as ordered.

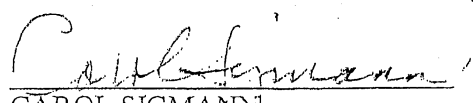
15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Board issue a decision:

18 1. Revoking the probation that was granted by the Board in Case No.
19 AC-2001-17 and imposing the disciplinary order that was stayed, thereby revoking Certified
20 Public Accountant Certificate No. CPA 43463 issued to Barry A. Snell;

21 2. Taking such other and further action as deemed necessary and proper.

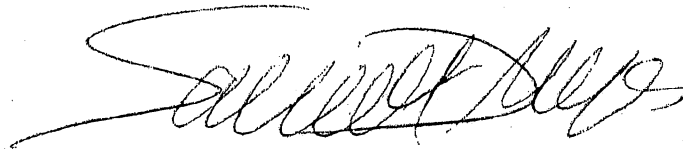
22 DATED: March 1, 2004

23 
24 CAROL SIGMANN
25 Executive Officer
26 California Board of Accountancy
27 Department of Consumer Affairs
28 State of California
Complainant

03541110-LA2003600833
i:/all/GomezG/Draft Pleadings/Snell-pet2rev
11/17/2003dmc

2. The Disciplinary Order is modified as follows. Certified Public Accountant Certificate number 43463 issued to Barry A. Snell is revoked. However, revocation is stayed and respondent is placed on probation for three (3) years from the effective date of this Decision on the terms and conditions of the Disciplinary Order, except for condition numbers 1 and 14.

DATED: 11/1/04

A handwritten signature in black ink, appearing to read "Samuel D. Reyes", written in a cursive style.

SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES F. AHERN, State Bar No. 147620
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-5315
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12 BARRY A. SNELL
309 West Ellis Avenue
13 Inglewood, CA 90302
14 Certified Public Accountant Certificate No.
43463
15

Respondent.

Case No. AC-2001-17

OAH No. L-2001070567

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 In the interest of a prompt and speedy settlement of this matter, consistent with
18 the public interest and the responsibility of the Board of Accountancy of the Department of
19 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
20 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
21 disposition of the Accusation.

22 **PARTIES**

23 1. Carol B. Sigmann (Complainant) is the Executive Officer of the Board of
24 Accountancy. She brought this action solely in her official capacity and is represented in this
25 matter by Bill Lockyer, Attorney General of the State of California, by James F. Ahern, Deputy
26 Attorney General.

27 2. Respondent, Barry A. Snell, (Respondent) is represented in this
28 proceeding by attorney John W. Harris, whose address is Attorney at Law, 911 Wilshire

1 Boulevard, Suite 2080, Los Angeles, Ca. 90017-3449.

2 3. On or about August 12, 1985, the Board of Accountancy issued Certified
3 Public Accountant Certificate No. 43463 to Barry A. Snell (Respondent). The License expired
4 on May 1, 1997, and has not been renewed.

5 JURISDICTION

6 4. Accusation No. AC-2001-17 was filed before the Board of Accountancy
7 of the Department of Consumer Affairs, (Board), and is currently pending against Respondent.
8 The Accusation, together with all other statutorily required documents were properly served on
9 Respondent on July 10, 2001, and Respondent timely filed his Notice of Defense contesting the
10 Accusation. A copy of Accusation No. AC-2001-17 is attached as exhibit A and incorporated
11 herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, fully discussed with counsel, and
14 understands the charges and allegations in Accusation No. AC-2001-17. Respondent has also
15 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
16 Settlement and Disciplinary Order.

17 6. Respondent is fully aware of his legal rights in this matter, including the
18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
19 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
20 the right to present evidence and to testify on his own behalf; the right to the issuance of
21 subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
25 each and every right set forth above.

26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in
28 Accusation No. AC-2001-17.

1 9. Respondent agrees that his Certified Public Accountant License is subject
2 to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 RESERVATION

5 10. The admissions made by Respondent herein are only for the purposes of
6 this proceeding, or any other proceedings in which the Board of Accountancy or other
7 professional licensing agency is involved, and shall not be admissible in any other criminal or
8 civil proceeding.

9 CONTINGENCY

10 11. This stipulation shall be subject to approval by the Board. Respondent
11 understands and agrees that the Board of Accountancy's staff and counsel for Complainant may
12 communicate directly with the Board regarding this stipulation and settlement, without notice to
13 or participation by Respondent or his counsel. By signing the stipulation, Respondent
14 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
15 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
16 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force
17 or effect, except for this paragraph, it shall be inadmissible in any legal action between the
18 parties, and the Board shall not be disqualified from further action by having considered this
19 matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
22 force and effect as the originals.

23 13. In consideration of the foregoing admissions and stipulations, the parties
24 agree that the Board may, without further notice or formal proceeding, issue and enter the
25 following Disciplinary Order:

26 DISCIPLINARY ORDER

27 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No.
28 43463, issued to Respondent, Barry A. Snell, is revoked. However, the revocation is stayed

1 and Respondent is placed on probation for three (3) years on the following terms and conditions.

2 1. **Actual Suspension.** Certified Public Accountant Certificate No. 43463,
3 issued to Barry A. Snell, is suspended until it is renewed active, and then for an additional sixty
4 (60) days thereafter. During the period of suspension the Respondent shall engage in no
5 activities for which certification as a Certified Public Accountant or Public Accountant is
6 required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

7 2. **Obey All Laws.** Respondent shall obey all federal, California, other
8 states' and local laws, including those rules relating to the practice of public accountancy in
9 California.

10 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days
11 of completion of the quarter, written reports to the Board on a form obtained from the Board.
12 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
13 and verification of actions, as are required, by the Board. These declarations shall contain
14 statements relative to Respondent's compliance with all the terms and conditions of probation.
15 Respondent shall immediately execute all release of information forms as may be required by the
16 Board or its representatives.

17 4. **Personal Appearances.** Respondent shall, during the period of probation,
18 appear in person at interviews/meetings, as directed by the Board, or its designated
19 representatives, provided such notification is accomplished in a timely manner.

20 5. **Comply With Probation.** Respondent shall fully comply with the terms
21 and conditions of the probation imposed by the Board and shall cooperate fully with
22 representatives of the Board of Accountancy in its monitoring and investigation of the
23 Respondent's compliance with probation terms and conditions.

24 6. **Practice Investigation.** Respondent shall be subject to, and shall permit,
25 practice investigation of the Respondent's professional practice. Such a practice investigation
26 shall be conducted by representatives of the Board, provided notification of such review is
27 accomplished in a timely manner.

28 7. **Comply With Citations.** Respondent shall comply with all final orders

1 resulting from citations issued by the Board of Accountancy. Respondent shall pay Citation No.
2 CT-2000-69, in the amount of \$2510.00, including bank fee, and report the change of his address
3 of record no later than 30 days of the effective date of this Disciplinary Order.

4 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
5 Respondent should leave California to reside or practice outside this state, Respondent must
6 notify the Board in writing of the dates of departure and return. Periods of non-California
7 residency or practice outside the state shall not apply to reduction of the probationary period, or
8 of any suspension. No obligation imposed herein, including requirements to file written reports,
9 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
10 affected by such periods of out-of-state residency or practice except at the written direction of the
11 Board.

12 9. **Violation of Probation.** If Respondent violates probation in any respect,
13 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
14 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
15 probation is filed against Respondent during probation, the Board shall have continuing
16 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
17 is final.

18 10. **Completion of Probation.** Upon successful completion of probation,
19 Respondent's license will be fully restored.

20 11. **Ethics Course/Examination.** Respondent shall take and pass with a
21 score of 90 percent or better a Board approved ethics examination within the first year of
22 probation.

23 If Respondent fails to pass said examination within the time period provided or
24 within two attempts, Respondent shall so notify the Board and shall cease practice, until
25 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,
26 and has been notified by the Board that he may resume practice. Failure to pass the required
27 examination within the first year of practice shall constitute a violation of probation.
28

12. **Continuing Education Courses.** Respondent shall complete and provide proper documentation of eighty (80) hours of continuing professional education courses within the first twelve months of probation. This shall be in addition to normal eighty (80) hours of continuing professional education requirements for re-licensing. The eight (8) hour ethics course may be included in this eighty (80) hour requirement.

13. **Active License Status.** Respondent shall at all times maintain an active license status with the Board, including during any period of suspension. If the license is expired at the time the Board's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

14. **Cost Reimbursement.** Respondent shall reimburse the Board \$3500.00 for a portion of the cost of the Board's investigation and prosecution of this case. The payment shall be made within 33 months maximum of the date the Board's decision is final, as follows: thirty-two (32) payments of \$106.06 per month, due on the first of each month, and a final payment of \$106.08.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John W. Harris. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Accountancy.

DATED: 10/01/01

BARRY A. SNEEL
Respondent

I have read and fully discussed with Respondent, Barry A. Snell, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary

1 Order. I approve its form and content.

2 DATED: 10-1-01

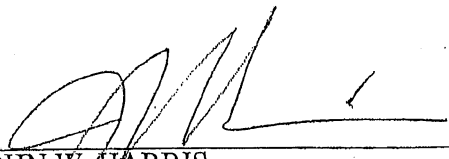
3

4

5

6

7


JOHN W. HARRIS
Attorney for Respondent

ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Board of Accountancy of the Department of Consumer
10 Affairs.

11

12 DATED: October 3, 2001

13

BILL LOCKYER, Attorney General
of the State of California

14

15

16

17

18

19

20

21

22

23

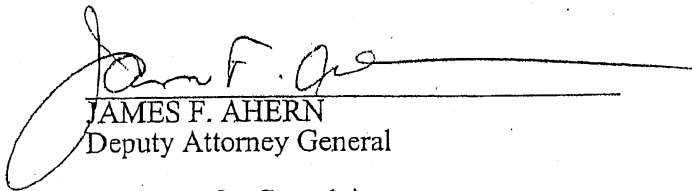
24

25

26

27

28


JAMES F. AHERN
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

BARRY A. SNELL
309 West Ellis Avenue
Inglewood, CA 90302

Certified Public Accountant Certificate No.
43463

Respondent.

Case No. AC-2001-17

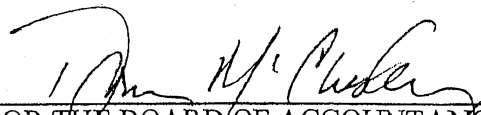
OAH No. L-2001070567

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Accountancy of the Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 26, 2001.

It is so ORDERED November 16, 2001.



FOR THE BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES F. AHERN, State Bar No. 147620
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-5315
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2001-17

12 BARRY A. SNELL
309 West Ellis Avenue
13 Inglewood, CA 90302

A C C U S A T I O N

14 Certified Public Accountant
No. CPA 43463

15
16 Respondent.

- 17 1. Complainant, Carol Sigmann, is the Executive Officer of the California
18 State Board of Accountancy ("Board") and brings this Accusation solely in her official capacity.
19 2. On August 12, 1995, the Board issued to Barry A. Snell ("Respondent")
20 Certified Public Accountant Certificate Number CPA 43463. The Board records were
21 transferred to the Department of Consumer Affairs centralized computer system in March of
22 1989. As a result, the underlying documentation related to license history prior to the date is
23 unavailable. The computerized records reflect that, in March 1989, the license was in a current
24 status.

25 The certificate expired and was not valid during the period of May 1, 1989,
26 through September 26, 1989, for the following reasons:

- 27 (a) The renewal fee, required by the Business and Professions Code 5070.5 was
28 not paid;

1 (b) The Declaration of compliance with continuing education requirements was
2 not submitted.

3 The certificate was renewed effective September 27, 1989, through April 30,
4 1991, upon receipt of the renewal fee and declaration of compliance with continuing education
5 regulations. Said certificate expired and was not valid during the period of May 1, 1991,
6 through March 28, 1993, for the reasons stated above. The certificate was renewed effective
7 March 29, 1993, through April 29, 1993, upon receipt of the renewal fee and declaration of
8 compliance with continuing education regulations.

9 Effective April 30, 1993, the certificate was placed on hold and issued a
10 temporary 150-day license pursuant to Family Code Section 17520. On September 27, 1993,
11 the temporary 150-day license expired and the certificate remained in an expired status and was
12 not valid during the period of September 28, 1993, through February 16, 1994. Said certificate
13 was released under Family Code Section 17520 and became effective February 17, 1994, through
14 April 30, 1995. The certificate expired and was not valid during the period of May 1, 1995,
15 through March 19, 1996, for the reasons set forth above. Said certificate was renewed effective
16 March 20, 1996, through March 29, 1996, upon receipt of the renewal fee and declaration of
17 compliance with continuing education regulations.

18 Effective March 30, 1996, the certificate was placed on hold and issued a
19 temporary 150-day license pursuant to Family Code Section 17520. On August 19, 1996, the
20 temporary 150-day license expired and the certificate remained in an expired status and was not
21 valid during the period of August 20, 1996, through April 30, 1997, pursuant to Family Code
22 Section 17520. Said certificate expired on May 1, 1997, and has not been renewed. The
23 Family Code Section 17520 licensure denial was removed on June 11, 1997.

24 JURISDICTION

25 3. Section 5100 of the Business and Professions Code (hereinafter "Code")
26 provides, in pertinent part, that after notice and hearing the Board may revoke, suspend or refuse
27 to renew any permit or certificate for unprofessional conduct which includes, but is not limited
28 to, one or any combination of the following:

1 (f) Willful violation of this chapter or any rule or regulation promulgated by the
2 Board under the authority granted under this chapter.

3 (h) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

4 4. Section 118(b) of the Code provides that the suspension, expiration, or
5 forfeiture by operation of law of a certificate does not deprive the Board of authority or
6 jurisdiction to institute or continue with disciplinary action against the certificate or to order
7 suspension or revocation of the certificate, during the period within which the certificate may be
8 renewed, restored, reissued or reinstated.

9 5. Section 5050 of the Code provides that no person shall engage in the
10 practice of public accountancy without a valid license to practice.

11 6. Title 16, California Code of Regulations, section 99, provides that for the
12 purpose of denial, suspension, or revocation of a certificate or permit pursuant to Division 1.5
13 (commencing with section 475) of the Business and Professions Code, a crime or act shall be
14 considered to be substantially related to the qualifications, functions, or duties of a certified
15 public accountant or public accountant if, to a substantial degree, it evidences present or potential
16 unfitness of a certified public accountant or public accountant to perform the functions
17 authorized by his certificate, or permit, in a manner consistent with the public health, safety, or
18 welfare. Such crimes or acts shall include but are not limited to those involving the following:

19 (a) Fiscal dishonesty or breach of fiduciary responsibility of any kind;

20 (d) Violations of any of the provisions of Chapter 1, Division III of the Business
21 and Professions Code or willful violation of any rule or regulation of the Board.

22 7. Pursuant to Title 16, California Code of Regulations, section 3(a), each
23 licensee shall notify the Board in writing of any change in his or her address of record within 30
24 days after the change.

25 8. Title 16, California Code of Regulations, section 95.4, states that the
26 failure of a licensee to comply with a citation containing an assessment of an administrative fine,
27 an order of correction or abatement, or both an administrative fine and an order of correction or
28 abatement, after this citation is final, and has been served in accordance with the provisions of

1 Section 11505(c) of the Government Code, shall constitute a ground for revocation or suspension
2 of the license or permit.

3 9. Section 5107 of the Code provides, in part, that the Board's Executive
4 Officer may request the administrative law judge, as part of the proposed decision in a
5 disciplinary proceeding, to direct a Respondent, found to have committed specified acts of
6 unprofessional conduct, to pay to the Board all reasonable costs of investigation and prosecution
7 of the case, including, but not limited, to attorney's fees.

8 10. Respondent has subjected his license to discipline pursuant to section 5100,
9 subdivisions (f) and (h) of the Code, in conjunction with Title 16, California Code of
10 Regulations, section 99 (a) and (d) on the grounds of unprofessional conduct, statute violation,
11 and fiscal dishonesty, as more fully set forth herein:

12 A. On or about June 12, 2000, Respondent was issued citation number CT-
13 2000-69 for practicing public accountancy with an expired license, and for not advising the
14 California Board of Accountancy, in writing, of his change in his address of record within 30
15 days after the change.

16 B. The citation included an order for payment of a fine of \$2,500.00, ordered
17 Respondent to cease and desist his practice as a Certified Public Accountant until his license was
18 renewed, and for Respondent to provide to the Board written notice of his change of address.
19 Respondent has not, as yet, complied with any of these orders.

20 C. Further, the citation ordered Respondent to submit evidence of continuing
21 professional education of the 80-hour requirement for the renewal period beginning June 1, 1999,
22 which should have been completed between June 1, 1997 and May 31, 1999. Respondent has
23 not, as yet, complied with this order.

24 D. Respondent continued to practice public accountancy with an expired
25 license, as noted by the Board staff member when that staff member visited Respondent's
26 business office on November 2, 2000.

27 11. Respondent is subject to disciplinary action pursuant to section 5100(f) of
28 the Code in conjunction with Title 16 of the California Code of Regulations, section 95.4, in that

1 Respondent failed to comply with citation number CT-2000-69.

2 12. Respondent has further subjected his license to discipline pursuant to
3 section 5050 of the Code for his continued practice of public accountancy with an expired
4 license.

5 13. Respondent has further subjected his license to discipline pursuant to
6 section 5100 (f) of the Code for violating section 3(a), Title 16 of the California Code of
7 Regulations, in that Respondent failed to notify the Board in writing of his change of address.

8 14. Furthermore, Respondent has violated section 5100(h) of the Business &
9 Professions Code in that in or about September of 2000, Respondent knowingly and willfully
10 issued a check no. 0556, for \$2,500.00 in payment of a citation fine on Citation no. CT-2000-69,
11 which check was issued without there being sufficient funds in the account to cover the check at
12 the time of its issuance or at the time of its negotiation. This check was received by
13 Complainant on or about September 15, 2000, and was subsequently dishonored by the issuing
14 bank and returned to the Department of Consumer Affairs for Insufficient Funds. The issuance
15 of this check by Respondent constitutes fiscal dishonesty by Respondent at the time of the
16 issuance of the check.

17 //////////////

18

19

20

21

22

23

24

25

26

27

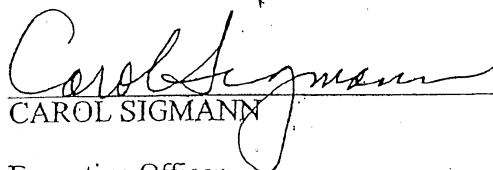
28

PRAYER

WHEREFORE, the complainant requests that a hearing be held on the matters herein alleged, and that following said hearing, the Board issue a decision:

1. Revoking, suspending or otherwise imposing discipline upon Certified Public Accountant Certificate No. CPA 43463, issued to Barry A. Snell;
2. Directing Respondent to pay the costs of investigation and prosecution as provided by Section 5107 of the Code;
3. Taking such other and further action as the Board deems proper.

DATED: July 3, 2001


CAROL SIGMANN

Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant